IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 16873 OF 2007

Dated : November 12, 2007

Between:

Dr. K.Omkareshwar.

Petitioner

AND

The Director of Insurance Medical Services
Andhra Pradesh, Hyderabad and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 16873 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of certiorari to call for the records relating to the order dated 31.01.2007 insofar as it relates

to O.A. No. 3505 of 2006 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, and to set aside the same declaring the inaction on the part of the respondents in not passing orders on his representations dated 11.09.2004 and 06.04.2005 till date and not settling the period from 12.7.1990 to 31.12.1993 as on duty for all purposes as illegal, arbitrary and unjust, the petitioner filed this writ petition.

The petitioner herein, apart from the above OA, filed another OA No. 3504 of 2006 seeking a direction to the respondents to pass orders on his representations dated 11.02.2006 and 25.02.2006 and to furnish letters dated 11.08.1998 and 06.05.2005 to him and declare the Charge Memo dated 27.01.2006 issued by the first respondent as null and void and to quash the same with consequential benefits. The petitioner also filed the above O.A. seeking a direction to the respondents to dispose of the representations dated 11.9.2004 and 6.4.2007, as stated supra.

The facts, in brief, are that the petitioner joined as Civil Assistant Surgeon on 20.07.1983. While in service, the petitioner applied for two months leave from 4.11.1997 and on expiry of the same, the applicant submitted resignation letter dated 4.1.1998 and since nothing was heard about the same, he submitted another resignation letter dated 15.05.1999. Subsequently, he made

representations dated 16.09.2004 and 07.04.2005, which were not considered. However, the petitioner received a Charge Memo dated 27.01.2006 issued by the first respondent stating that the petitioner remained absent unauthorisedly from 4.11.1997. The contention of the petitioner before the Tribunal was that the issuance of charge memo after eight long years from the date of submission of the resignation letter per se is mala fide.

The case of the respondents before the Tribunal was that the petitioner remained absent from duty after availing two months leave from 4.11.1997. It is further their case that there is no provision to accept conditional resignation, submitted by the petitioner. It is further stated that the petitioner did not furnish correct address so as to initiate disciplinary proceedings, as such, there occurred delay in initiation of disciplinary proceedings. The representations submitted by the petitioner are not related to the Charge Memo and, hence, the petitioner is not entitled to the relief sought for by him.

The Tribunal, having regard to the submissions advanced before it, observed that the initiation of disciplinary proceedings after eight years of the resignation letter is not just. It also held that since nothing was heard about the resignation letter submitted by the petitioner, it should be treated as deemed acceptance and, therefore, the respondents are not entitled to take

further action for the alleged un-authorised absence after a lapse of eight years of resignation. Consequently, the Tribunal directed the respondents to accept the resignation letter dated 15.05.1999 and to drop further proceedings in pursuance of the Charge Memo dated 27.01.2006. With the above directions, OA No. 3504 of 2006 was disposed of and in view of the above directions, OA No. 3505 of 2007 was closed without further orders thereon.

Aggrieved thereby, the present writ petition is filed contending that the Tribunal has failed to appreciate the prayer in OA No. 3505 of 2006, and in a mechanical way disposed of the O.A. as regards the representations, which were the subject matter of the said O.A., without giving specific finding, disposed of the O.A.

On 30.8.2007, when this writ petition was listed for admission, this court directed the respondents to consider the representations of the petitioner dated 11.09.2004 and 06.04.2005 within a period of three weeks.

Today, when the writ petition is taken up, the learned Government Pleader submitted that pursuant to the order dated 30.8.2007 made by this court, the representations dated 11.09.2004 and 06.04.2005 were considered by the Government and passed orders in Memo No.7704/IMS-1/2007 Labour Employment Training and Factories (IMS) Department dated 08.10.2007.

Since the representations dated 11.09.2004 and 06.04.2005 made by the petitioner were considered and the above order dated 08.10.2007, came to be passed, the writ petition deserves no interference. But, however, if the petitioner feels aggrieved by the said order passed by the Government, liberty is granted to the petitioner to assail the same before appropriate forum.

With these observations, the writ petition is closed. No order as to costs.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

November 12, 2007
MAS